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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/602,651	06/25/2003	Marlies Vey	237391US0	1020

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EXAMINER

CAMERON, ERMA C

ART UNIT PAPER NUMBER

1762

DATE MAILED: 04/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/602,651	Applicant(s) VEY ET AL.	
	Examiner Erma Cameron	Art Unit 1762	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3 and 5-18 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 5-18 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received:
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-3 and 5-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over EP 592683.

'683 teaches applying an amorphous olefin polymer (ethylene, propylene or butene (4:52-58)) composition to a carpet substrate in molten form (see Abstract). The molten composition is used twice, once for sealing and once for lining (3:10-40). The composition is low in both melt temperature and melt viscosity (300 to 30,000 cP at 190 degrees C (equiv to 300 to 30,000 mPa.s, as calculated by PROKON); 5:1-24). The softening point is 100-170 degrees C (5:1-24). The polymer content of the composition is not higher than 95% (5:1-24). The polymer composition is applied to the carpet at 200-2000 g/m². Claims 2 and 6-8 do not require further additives. '683 teaches that amorphous olefins, such as polypropylene and butene polymer (5:1-24) may be used alone or in mixtures, thus meeting claim 3.

The melt viscosity, softening point, coating weight and polymer content all overlap with values claimed by applicant.

The subject matter as a whole would have been obvious to one having ordinary skill in the art at the time the invention was made to have selected the overlapping portion of the range

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disclosed by the reference because overlapping ranges have been held to be a prima facie case of obviousness. See *In re Malagari* 182 USPQ 549.

The amorphous polymer composition is applied at over 50 degrees C (8:47-10:22), thus meeting claim 10.

The composition appears to contain neither water nor solvent, and therefore dries without evaporation of a solvent.

The softening point is 100-170 degrees, and therefore the composition would harden at below 100 degrees C.

'683 does not teach that the carpet is polypropylene, but this is a conventional material for a carpet.

'683 does not teach that the carpet is heated before application of the polymer composition, but this would be an obvious variation on the '683 process.

'683 does not teach the density or needle penetration of the amorphous polymer, but because the melt viscosity, softening point and polymer composition is similar to that claimed by applicant, other parameters such as density and needle penetration are expected to be similar as well.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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4. Claim 5 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

a) Claim 5: it appears from 5:12 that the lower softening point should be 80 degrees C, not 70.

b) Claim 5: it appears that the upper limit of the melt viscosity should be 20,000 mPas (to agree with claim 1), not 200,000.

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Erma Cameron whose telephone number is 571-272-1416. The examiner can normally be reached on 8:30-6:00, alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Timothy Meeks can be reached on 571-272-1423. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Erma Cameron
ERMA CAMERON
PRIMARY EXAMINER

Erma Cameron
Primary Examiner
Art Unit 1762

April 5, 2005